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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/612,694

07/02/2003

Daniel R. Gaur

P15727

4390

46915

7590

10/02/2008

KONRAD RAYNES & VICTOR, LLP.

ATTN: INT77

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EXAMINER

HO, ANDY

ART UNIT

PAPER NUMBER

2194

NOTIFICATION DATE

DELIVERY MODE

10/02/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

krvuspto@ipmatters.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/612,694	<b>Applicant(s)</b> GAUR, DANIEL R.	
	<b>Examiner</b> ANDY HO	<b>Art Unit</b> 2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/23/2004</u> .                                               | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to the application filed 7/2/2003.
2. Claims 1-23 have been examined and are pending in the application.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 17-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The specification defines “article of manufacture” as including non-statutory media such as transmission media (Specification, paragraph 0026 page 12) which incapable of being touched or perceived absent the statutory medium through which they are conveyed.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Jacobson U.S Patent No. 7,386,619.

**As to claim 1**, Jacobson teaches a method of executing tasks in a multi-processor system (Fig. 2), comprising:

executing a device driver to select a processor to execute an interrupt handler task (lines 56-59 column 3); and

executing an operating system scheduler to assign an interrupt handler task to said processor selected by said device driver (line 59 column 3 to line 3 column 4).

**As to claim 2**, Jacobson further teaches operating the processor selected by said device driver and assigned by said operating system scheduler to execute an interrupt handler task in response to an interrupt (line 56 column 3 to line 3 column 4).

**As to claim 3**, Jacobson further teaches said device driver executing includes a first monitoring of usage of a plurality of processors in said system and selecting, as a function of said first monitoring, a processor as the currently selected processor to execute an interrupt handler task (lines 31-52 column 4).

**As to claim 4**, Jacobson further teaches said device driver executing includes a second monitoring of usage of a plurality of processors in said system and selecting, as a function of said second monitoring, either the currently selected processor or a different processor to execute an interrupt handler task (lines 31-52 column 4).

**As to claim 5**, Jacobson further teaches said device driver executing includes identifying the processor with the lowest usage, comparing the usage of the lowest

usage processor to the usage of the currently selected processor and selecting the lowest usage processor to execute an interrupt handler task if the usage of the currently selected processor exceeds the usage of the lowest usage processor (line 31 column 4 to line 25 column 5).

**As to claim 6**, Jacobson further teaches said device driver executing includes identifying the processor with the lowest usage, comparing the usage of the lowest usage processor to the usage of the currently selected processor and selecting the lowest usage processor to execute an interrupt handler task if the usage of the currently selected processor exceeds the usage of the lowest usage processor by a predetermined margin of usage (line 31 column 4 to line 25 column 5).

**As to claim 7**, Jacobson further teaches said device driver executing includes selecting the currently selected processor to execute an interrupt handler task if the usage of the currently selected processor is the lowest (line 31 column 4 to line 25 column 5).

**As to claim 8**, Jacobson further teaches said device driver executing includes selecting the currently selected processor to execute an interrupt handler task if the usage of the currently selected processor exceeds the usage of the lowest usage processor by less than a predetermined margin of usage (line 31 column 4 to line 25 column 5).

**As to claim 9**, it is a system claim of claim 1. Therefore, it is rejected for the same reasons as claim 1 above. Jacobson further teaches a data storage and a

storage controller adapted to manage Input/Output access to the data storage (storage 230, Fig. 2 and associated specification).

**As to claims 10-16**, they are system claims of claims 2-8, respectively.

Therefore, they are rejected for the same reasons as claims 2-8 above.

**As to claims 17-23**, they are system claims of claims 1 and 3-8, respectively.

Therefore, they are rejected for the same reasons as claims 1 and 3-8 above.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy Ho whose telephone number is (571) 272-3762. A voice mail service is also available for this number. The examiner can normally be reached on Monday – Friday, 8:30 am – 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng An can be reached on (571) 272-3756.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIM) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.

Any response to this action should be mailed to:

Commissioner for Patents

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Or fax to:

- AFTER-FINAL faxes must be signed and sent to (571) 273 - 8300.
- OFFICAL faxes must be signed and sent to (571) 273 - 8300.
- NON OFFICAL faxes should not be signed, please send to (571) 273 – 3762

/Andy Ho/

Primary Examiner

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